

STATE OF HAWAII
Department of Land and Natural Resources
Division of State Parks
Honolulu, Hawai'i

September 9, 2010

Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Subject: Request Approval to Enter into a Memorandum of Agreement between Department of Land and Natural Resources and Hawai'i Maoli to Undertake Driveway Improvements at the Royal Mausoleum at Mauna'ala, Nu'uaniu, O'ahu (TMK: 2-2-021: 012).

The Division of State Parks (State Parks) is requesting Land Board approval to allow the Department of Land and Natural Resources (DLNR) to enter into a Memorandum of Agreement (MOA) with Hawai'i Maoli, a nonprofit incorporation, for the purpose of improving the driveway on the grounds of the Royal Mausoleum at Mauna'ala. The Royal Mausoleum was established by Kamehameha IV in 1864 to house the remains of the direct descendants of Kamehameha I and their close family members and advisors. After King David Kalākaua ascended to the throne in 1874, it also became the final resting place for his family and that of his wife's family. The grounds of the Royal Mausoleum have thus become a focal point for those honoring the kings and queens of Hawai'i and their lasting legacies.

The proposed driveway improvements are part of a larger and ongoing effort to complete a number of badly needed repair and restoration projects at Mauna'ala which is under the administrative jurisdiction of State Parks. This effort has been largely spearhead by Hawai'i Maoli, the nonprofit arm of the Hawaiian Civic Clubs, with financial support from various state, federal, and private sources and in conjunction with State Parks, the Office of Hawaiian Affairs, and the Ali'i Trusts. In 2006, DLNR and Hawai'i Maoli entered into a MOA that allows the Hawai'i Maoli to pursue, on behalf of and with the assistance of DLNR, these repair and renovation projects with funds raised through grants and donations.

The MOA being proposed for the driveway improvements (Exhibit A) establishes an understanding between Hawai'i Maoli and DLNR on their respective responsibilities for this particular undertaking and, more importantly, verifies that the two parties, collectively, have sufficient funds to complete the project prior to DLNR putting the project out to bid.

Background

In 2006, the Hawai'i State Legislature, through Act 224, appropriated \$180,000 in public-land-trust funds for the repair and maintenance of the Royal Mausoleum and its grounds. The Act specified that the funds be expended by OHA and that the appropriated amount would not be taken from public-land-trust proceeds designated for OHA pursuant to Section 10-13.5, HRS. To achieve this, the Governor issued Executive Order No. 07-05 which set aside a sum of \$180,000 from the public-trust-land receipts collected by DLNR and specified that it could only be used for the Royal Mausoleum as intended by Act 224, SLH 2006. In 2007, the DLNR and OHA entered into a MOA to expend these funds. Under the agreement, the funds would be used primarily to repair and reconstruct the stone wall that marks the boundary of the Royal Mausoleum grounds. If funds remained after completion of this work, they would be used to repair the driveway or the chainlike fence along the *mauka* boundary of the property. As part of the agreement, DLNR would be responsible for steps needed to complete the state procurement process, including awarding the construction contract, implementing the contract, and overseeing construction. This MOA was extended in 2008 and 2009.

The repair and reconstruction of the rock wall has been completed at a cost of \$72,500. In 2009, \$6,295 of the appropriation was used to patch, temporarily, potentially hazardous driveway segments until the entire driveway could be improved. As a result, \$101,205 of the \$180,000 appropriated by Act 224 is available for one or both of the two other projects specified in the 2007 MOA between DLNR and OHA. Hawai'i Maoli, State Parks, OHA, and the Ali'i Trusts have all agreed that the proposed driveway improvements are a priority and wish to use this \$101,205 as a match for a federal grant Hawai'i Maoli received from the National Park Service Save America's Treasures program in 2009. The estimated cost of the proposed driveway improvements is \$260,000. Because this project includes the expenditure of state funds, the construction contract and bid process must comply with state procurement laws, a process DLNR is obligated to perform under the 2007 MOA with OHA. This procurement process can not proceed without Hawai'i Maoli entering into an agreement with DLNR which confirms that these federal funds will be available for this project and that Hawai'i Maoli will fulfill all obligations required under its federal grant agreement to secure these funds. The MOA for which State Parks is seeking Land Board approval will fulfill this purpose and allow DLNR to proceed with the bid process.

Discussion

Repair of the Royal Mausoleum driveway and its curbing is a priority not only because the driveway is integral to the historic character of the grounds, but because much of the protocol followed by those who come to honor Hawai'i's kings and queens takes place on the driveway. The various crypts and monuments on the grounds are all approached, mostly by foot, along the driveway. Many of the individuals paying their respects are elderly and the uneven or cracked surface of the current paving can make their efforts difficult or potentially hazardous. The current plan calls for removing the current paving;

installing a sound base course; resetting the cut and finished basalt curbstones that run along the *mauka* edge of the driveway from the entry gate to the Kamehameha Crypt; and replacing the concrete curbing with pre-cast drop curbs that mimic, in general form, the appearance of the basalt curbstones; and repaving the driveway with asphalt.

The Royal Mausoleum's driveway has retained much of its historic character over the last 135 years and contributes to the significance and integrity of this historic property that was listed on the National Register of Historic Places in 1972 and the Hawaii Register of Historic Places in 1981 (Site No. 80-14-9909). The driveway's general shape, width, and layout are all clearly visible in the earliest photographs and drawings of the Royal Mausoleum and photographs taken during the 1920s and 1930s confirm that the driveway surface was graded, unpaved dirt for most of its history. By 1950, however, it is labeled as being paved with asphalt on construction plans for the 1950 chapel renovations. It was probably paved with asphalt sometime in the 1940s, possibly in 1947 when the grounds were first opened to the public for vehicular access. Placement of the cut and finished basalt curbstones along the *mauka* edge of the driveway was probably associated with the Kamehameha Crypt where the curbstones end. This crypt was completed in 1887. The stately Royal Palms that now line the inner and outer edges of the driveway were also first planted in 1887 and will remain with the exception of those unhealthy trees that need to be replaced. The concrete curbing, that which will be replaced as part of this project, was installed in 1918 as part of a public works project to grade and shape the driveway to address drainage problems caused during heavy rains. The project is being designed to mitigate the potential adverse effects of these improvements on the historic character of the grounds and will meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.

State Parks has determined that the this project will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under chapter 343, Hawaii Revised Statutes (HRS) and chapter 11-200, Hawaii Administrative Rules (HAR). This action falls within Exemption Class 2 under §11-200-8(a)(2), HRS and within Exemption Class 2, Number 3 of the State Parks Exemption List which exempts the replacement or reconstruction of "Roads, road structures or trails — within developed, maintained portions of State Parks [February 5, 1976]."

STAFF RECOMMENDATION:

That the Board of Land and Natural Resources:

- 1) Authorize the Department of Land and Natural Resources to enter into a Memorandum of Agreement with Hawai'i Maoli for the purpose of undertaking driveway improvements at the Royal Mausoleum at Mauna'ala, subject to review and approval as to form by the Attorney General and such other terms and conditions as may be prescribed by the Chairperson to serve in the interest of the state.

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- 2) Authorize the Chairperson as its designee to approve any revisions or amendments to the Memorandum of Agreement as needed.
- 3) Concur that the project enabled by the Memorandum of Agreement will have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under chapter 343, Hawaii Revised Statutes (HRS) and chapter 11-200, Hawaii Administrative Rules (HAR).

Respectfully Submitted,



Daniel S. Quinn, Administrator
Division of State Parks

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson

MEMORANDUM OF AGREEMENT
BETWEEN
HAWAI'I MAOLI
AND
THE DEPARTMENT OF LAND AND NATURAL RESOURCES
THE STATE OF HAWAI'I

I. PARTIES

This Memorandum of Agreement (MOA) is entered into on this _____, 2010 between Hawai'i Maoli, a nonprofit corporation, by its President, and the Department of Land and Natural Resources, State of Hawaii, hereafter referred to as the "DLNR", for the purposes set forth below.

II. PURPOSE

A. Background

In 1864, the property on which the Royal Mausoleum stands at Mauna'ala, Nu'uanu, TMK (1) 2-2-021: 012, was set aside by Kamehameha IV to be the final resting place for Kamehameha I's direct descendants, their immediate families, and several close advisors. After King David Kalākaua assumed the throne in 1874, the grounds also became the place of burial for his family and that of his wife. All of Hawaii's historic-period, reigning monarchs, with the exception of Kamehameha I and Lunalilo, are at the Royal Mausoleum. As such, the grounds are a focal point for those wishing to honor the kings and queens of Hawai'i and their lasting legacies.

In 1979, the Royal Mausoleum and its grounds were placed under the control and management of the Division of State Parks (State Parks), DLNR, State of Hawai'i by Executive Order 2966 and became Royal Mausoleum State Monument.

In 2006, the Hawai'i State Legislature passed, and the Governor signed, Act 224 that appropriated \$180,000 from public land trust funds to be used for the repair and maintenance of the Royal Mausoleum. The Act designated the Office of Hawaiian Affairs (OHA) as the expending agency and specified that the sum could not be taken from the public land proceeds designated for OHA pursuant to section 10-13.5, Hawaii Revised Statutes (HRS). To implement the Act, the Governor issued Executive Order No. 07-05 on May 22, 2007 that sets aside the appropriated sum of \$180,000 from the public trust land receipts collected by DLNR.

On June 26, 2007, the DLNR and OHA entered into a Memorandum of Agreement (MOA) to expend the Act 224 appropriations on particular repair and maintenance projects at the Royal Mausoleum. DLNR agreed to provide, with the assistance of a subcontractor or subcontractors if appropriate, the planning, design, and procurement services needed to complete the specified projects. The MOA specifies that repair and reconstruction of the stone wall that marks the boundary of the Royal Mausoleum

grounds would be given priority in expending these funds. Any funds remaining after completion of the wall repairs were to be used to repair the driveway or replace the chain-link fence on the upslope side of the property. Extensions of this MOA were executed on June 25, 2008 and December 10, 2009 and will terminate, if not amended, on June 30, 2011.

In July 2010 repair of the stone wall was completed at a cost of \$72,500. In 2009, \$6,295 of the appropriation was used to patch the driveway to reduce potential hazards until the entire driveway could be improved. DLNR and OHA agree that the remainder of the appropriated \$180,000, a sum of \$101,205, can be used to repair the driveway. The estimated cost of the proposed driveway improvement is \$260,000. Additional funds are therefore required to undertake these improvements.

Hawai'i Maoli was formed by the Association of Hawaiian Civic Clubs in 1997 to help fulfill the Association's long-range goals to "preserve and cherish all sources and records of ancient Hawaiian traditions, customs, language and historic sites." It is a nonprofit Hawai'i corporation exempt from federal income taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)3 of the Code and has considerable experience in grant and contract management for non-profit projects designed to benefit the Hawaiian people and perpetuate their language, culture, and historic sites.

On December 27, 2006, the DLNR and Hawai'i Maoli entered into a three-year MOA that allows Hawai'i Maoli to pursue, on behalf of and with the assistance of DLNR, a number of repair and renovation projects at the Royal Mausoleum and to raise funds needed for these projects through government grants and private donations. The MOA anticipates that these initiatives may be augmented by work undertaken by State Parks with funds obtained through OHA. The 2006 MOA was amended and extended in December 2009 for a period of two years.

In October 2009, Hawai'i Maoli was awarded a federal matching grant of \$300,000 from the National Park Service (NPS) Save America's Treasures program. Hawai'i Maoli proposes to use \$152,500 of this matching grant for the driveway improvements. This sum, when combined with the remaining \$101,205 balance of the Act 224 appropriation, is sufficient to meet the estimated cost of the driveway improvements. The Save America's Treasures grant agreement remains in effect until October 31, 2011.

B. Purpose

The Parties have a mutual interest in undertaking the various repair and restoration projects proposed for the Royal Mausoleum at Mauna'ala and to preserve and perpetuate this historically and culturally significant place in the interest of the State of Hawai'i. Under its 2007 agreement with OHA, DLNR is responsible for providing the services needed to undertake specified projects, including repair of the driveway, and to do so in manner that expends the funds appropriated under Act 224, SLH 2006, in compliance with applicable state procurement laws. Under its 2009 agreement with

NPS, Hawai'i Maoli is responsible for undertaking specified projects, which may include the proposed driveway improvements, in a manner that meets all the terms and conditions of that grant agreement.

This MOA sets forth the roles and responsibilities of the Parties in undertaking the proposed driveway improvements and establishes that the Parties, under their respective agreements with OHA and NPS, have sufficient funds to complete the improvements, provided that the contract awarded for the improvements does not exceed the currently estimated cost.

III. Responsibilities

A. DLNR will:

1. Take all steps necessary to receive and encumber the remaining balance of the Act 224, SLH, appropriation from OHA for the purpose of undertaking driveway improvements in accordance with the 2007 MOA between DLNR and OHA.
2. Take all steps needed to complete the state procurement process for the driveway improvements, including awarding the construction contract, implementing the contract, and overseeing work conducted in fulfillment of the contract.
3. Assist in compiling information needed to prepare county or state permit applications or approvals if required.
4. Obtain concurrence from the State Historic Preservation Division to proceed with the proposed driveway improvements in accordance with sections 6E-7 and 6E-8, HRS.
5. Compile available information and documentation, if needed, to assess or mitigate any unanticipated effects of the project on the historic character of the Royal Mausoleum grounds as the project proceeds.
6. Provide the services of State Parks Archaeologists to inspect, document, and monitor the project where needed.

B. Hawai'i Maoli will:

1. Contract an architectural or engineering firm to prepare the plans and specifications needed to bid the project which will include replacing the asphalt-surfaced driveway and base course, re-setting the basalt curbing, and installing the new concrete curbing to replace the existing concrete curbing.
2. Submit to DLNR for review and approval preliminary plans and specifications for the project and, when approved, one digital and one hard copy of the finalized plans and specifications as required for the bidding process.

3. Prepare and submit any City and County of Honolulu or State of Hawai'i permit applications or approval requests required for the project.
4. Coordinate scheduling of the various projects being undertaken by Hawaii Maoli at the Royal Mausoleum to ensure that all projects which could alter or disturb the driveway or curbing occur prior to the final driveway paving and installation of curbing in order to maintain their uniform appearance.
5. Take all steps necessary to transfer to DLNR, in a timely manner, funds obtained through its NPS Save America's Treasures grant after receiving a bill for collection from DLNR for this project.
6. Fulfill all grant requirements to ensure release of the NPS grant funds for this project or seek the estimated \$152,500 needed to complete the project from other sources.

IV. General Provisions

- A. This MOA takes effect upon the signature of Chairperson of DLNR and the President of Hawai'i Maoli and shall remain in effect until June 30, 2011, the date by which the 2007 MOA between DLNR and OHA terminates. This MOA may be extended upon written request of either DLNR or Hawai'i Maoli and the subsequent written concurrence of the other party. Either DLNR or Hawai'i Maoli may terminate this MOA with a 30 day written notice to the other party. This MOA shall not be extended beyond the termination of the 2007 MOA between DLNR and OHA or beyond the termination of the grant agreement between Hawai'i Maoli and NPS.
- B. This MOA may be amended upon written request of either DLNR or Hawai'i Maoli and the subsequent written concurrence of the other party.

V. Administrative Contacts

The administrative contact for DLNR for this MOA is:

Daniel S. Quinn, Administrator
Division of State Parks
Department of Land and Natural Resources
1151 Punchbowl Street, Rm. 310
Honolulu, HI 96813

The administrative contact for Hawai'i Maoli:

Rae De Coito, Executive Director
Hawai'i Maoli
P.O. Box 1135
Honolulu, HI 96807

VI. Authority

The DLNR enters into this MOA under the authority provided by the Board of Land and Natural Resources at its [September 9, 2010] meeting.

Hawai'i Maoli enters in this MOA under the authority provided to its President by its Board of Directors.

VII. Approval

The undersigned Parties hereby agree to the terms and conditions set forth above.

STATE OF HAWAI'I

Laura H. Thielen
Chairperson,
Department of Land and Natural Resources

Dated: _____

HAWAI'I MAOLI

Henry Halenani Gomes
President

Date: _____

APPROVED AS TO FORM

Deputy Attorney General